

### **REMARKS**

The Examiner's Office Action has a mailing date of December 15, 2007. The Office Action is responsive to Applicant's communications dated August 29, 2006. The Examiner's rejection is a non-final rejection of claims 1-18, 20-25, and 28-30. The Examiner has accepted the drawings and the terminal disclaimer.

The Applicant respectfully responds to the Examiner's Detailed Action and requests that the Examiner place all pending claims in the application in a state of allowance in view of the amendments and the following remarks.

#### **A. Summary of Most Recent Office Action**

In summary, the Examiner has rejected claims 13-16, 20-23, 24-25, and 28-30 under 35 USC 101 because the Examiner argues the claims are directed to non-statutory subject matter.

Additionally, the Examiner is rejecting claims 1-18, 20-25, and 28-30 under 35 USC 112, first paragraph, for failing to comply with the written description requirement.

#### **B. 35 USC 101 Rejection**

The Examiner contends that Claim 13 does not appear to produce a tangible result "since nothing is done once the set of images is divided into the sequential subsets of images." See Page 2 Office Action.

The Applicant respectfully disagrees; however, to expedite the prosecution of this patent application, the Applicant has amended the independent claim 13 to include "displaying sequentially each image in the animation segment." The displaying of each

image in the animation segment provides a useful result, a tangible result, and a concrete result.

As stated by the MPEP Section 2106:

In determining whether a claim provides a practical application that produces a useful, tangible, and concrete result, the Examiner should consider and weigh the following factors:

(1) USEFUL RESULT

For an invention to be "useful" it must satisfy the utility requirement of section 101. The USPTO's official interpretation of the utility requirement provides that the utility of the invention has to be (i) specific, (ii) substantial and (iii) credible. ...

(2) TANGIBLE RESULT

The tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing. However, the tangible requirement does require that the claim must recite more than a Sec. 101 judicial exception, in that the process claim must set forth a practical application of that Sec. 101 judicial exception to produce a real-world result. citing Benson, 409 U.S. at 71-71, 175 USPQ at 676-77. ...

(3) CONCRETE RESULT

... the process must have a result that can be substantially repeatable or the process must substantially produce the same result again. Citing In re Swartz, 232 F.3d 862, 864, 56 USPQ2d 1703, 1704 (Fed. Cir. 2000). MPEP 2106 IV.C.2(2), Rev. 5, Aug. 2006, p. 2100-12.

Applicant amended claim language includes "displaying sequentially each image in the animation segment," which provides a useful result that is specific, substantial, and credible. Additionally, a concrete result that is repeatable is described because of the prior limitations of "associating a subset identifier with each respective subset; associating an action instruction with each respective segment; wherein the action instruction associated with one subset identifies another one of the subsets." Furthermore, a tangible "real world" result is achieved by displaying sequentially each image in the animation segment.

Since claims 14-16 depend on claim 13, which Applicant respectfully submits has been amended to overcome the Examiner's rejection, dependent claims 14-16 also overcome the 101 rejection.

Regarding claims 20-23, the Examiner concludes that the independent claim 20 is a "non-functional data structure and therefore non-statutory." See Page 3 of Office Action. Although the Applicant disagrees, the Applicant has amended independent claim 20 and dependent claim 21 to expedite the prosecution of this patent application. In particular, claims 20 and 21 have been modified to remove the reference to a "computer readable medium." Additionally, the independent claim 20 has been amended to read as follows:

A set of animation segment files associated with displaying an animation, said set of animation files comprising: a first segment file configured to store a first subset of displayable images, the images not linked to each other; a callback instruction associated with the first segment file; a second segment file configured to store a second subset of displayable images, the images not linked to each other; a file identifier associated with the second segment file; and wherein the callback instruction is indicative of the file identifier, the first segment configured to be loaded to a memory readable by an animation engine and the second segment configured to be loaded to the memory after at least a portion of the memory used by the first segment has been designated as available.

The amended independent claim 20 identifies a structural relationship that includes: a first segment file, a callback instruction, a second segment file, a file identifier, and a memory readable by an animation engine.

Additionally, a functional interrelationship is described "wherein the callback instruction is indicative of the file identifier, the first segment configured to be loaded to a memory readable by an animation engine and the second segment configured to be loaded to the memory after at least a portion of the memory used by the first segment has been designated as available."

The remaining dependent claims 21-23 depend from independent claim 20 and since claim 20 overcomes the 101 rejection, dependent claims 21-23 also overcome the underlying rejection.

Regarding claims 24-25 and 28-30, the Examiner rejected the claims under 35 USC 101 because the Examiner argued that independent claim 24 "does not appear to produce a tangible result since nothing is done to the first and second media objects once they have been loaded into memory." See Page 4 of Office Action.

Applicant respectfully traverses this rejection because the claimed subject matter in independent claim 24 provides a practical application that produces a useful, tangible and concrete result. The useful, tangible, and concrete result in claim 24 includes, but is not limited to, to "using the callback identifier to load the second media object into the memory that is usable for presenting the second media object where the animation file has at least a first and second segment associated with it ... ." Applicant respectfully submits that the word "using" is a noun, "usable" is an adjective, and "useful" is an adverb that are all derived from the same word "use," thus claim 24 is clearly useful.

Additionally, the Applicant submits that claim 24 is directed to a useful and tangible result because the claim describes *inter alia* "using the callback identifier to load the second media object into the memory that is usable ... ." Clearly, a tangible result is achieved when the memory is being loaded with the second media object. This is not an abstraction because there is a structural feature, i.e. the memory, which is associated with an operation, i.e. to load the second media object.

**C. 35 USC 112 Rejection**

The Examiner has rejected claims 1-18, 20-25, and 28-30 under 35 USC 112, first paragraph, because the Examiner stated that the independent claims 1, 13, 17, 20, and 24 stated that certain claim limitations were not found in the disclosure as originally filed on 11/14/2003. Applicant respectfully traverses this rejection and references the filed patent application to provide support for the claimed subject matter.

Regarding independent claim 1, 17, 20, 24 the limitations referred to by the Examiner are related to first segment file indicative of the first set of images, the first set of images not linked to each other, and a second segment file indicative of the second set of images, the second set of images not linked to each other. Additionally, with respect to claim 1, the Examiner referred to the limitation of dividing the set of images into a sequential subsets of images, each subset having a size up to a maximum size, where individual images have no link to another image.

Support for the first segment file 23 is provided from *inter alia* Page 13 – 18, and in Figure 1 of the filed patent application. Support for the second segment file 25 is provided from *inter alia* Page 13 – 16 of the filed patent application.

Reference to the “set of images not linked to each other” and “dividing the set of images into sequential subsets of images, each subset having a size up to a maximum size” is provided by describing *inter alia* the taking of a set images identified in an image list and segmenting that list into a series of subsets, wherein each subset has images that in the aggregate are smaller in size than the maximum size, which are clearly not linked together. See Page 11: Line 5-10 and Figure 1. Additional support is provided in the subsequent illustrative example of images that are segmented into a subset of

images. See Page 11: Line 11 – Page 12: Line 4. Furthermore, the Applicant proceeds to describe the “linking” of the subset of images wherein “the action instruction may be used to link one of the subsets to the next sequential subset. In this way, the action instruction is useful to link or chain the subsets in the proper sequential order.” See Page 12: Line 8 -11. Therefore, Applicant’s description references a condition that is “not linked” and that is necessary to perform the “linking” that is described in the patent application.

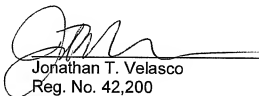
Applicant respectfully submits that the claims are allowable over the Examiner’s 101 rejections and 112, first paragraph, rejections. The limitations of pending claims 1-18, 20-25, and 28-30 are in condition for allowance, which action is respectfully requested.

**D. Conclusion**

For all the foregoing reasons, allowance of all pending claims is respectfully requested. If necessary, applicant requests, under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application and to charge the fees for a large entity under 37 CRFR 1.17(a). The Director is authorized to charge any additional fee(s) or any underpayment of fee(s) or credit any overpayment(s) to Deposit Account No. 50-3001 of Kyocera Wireless Corp.

Respectfully Submitted,

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